

REMARKS

Claims 1-3, 9, 12, 17, 18 and 20 are amended and claims 4, 7, 8 and 19 have been cancelled without prejudice or disclaimer. Accordingly, claims 1-3, 5, 6, 9-18 and 20-22 are pending in the application. A minor amendment to the specification, to correct an obvious error in the priority provisional application number, is made herein. Also by the present amendments, Applicant has incorporated dependent claim 8 into its parent claim 1. In addition, Applicant has made corresponding changes to dependent claims 2, 3 and 9 (for consistency in language with amended claim 1). Also, Applicant has incorporated dependent claim 19 into parent claim 12. Amendments to dependent claims 17 and 20 are made, to remove redundant language (redundant, in view of the amendment to parent claim 12). In addition, claim 18 is amended to be in independent form. **Accordingly, because the claim amendments either relate to incorporating features of a dependent claim into its parent claim or placing a dependent claim in independent form, entry of the present Amendment after the Final Office Action is appropriate and requested.** Re-examination and reconsideration of the application are requested, in view of the following remarks.

Claim 1 was objected to as having an informality with respect to missing an antecedent basis for the phrase "the selected service." Claim 1, as amended herein, is believed to provide sufficient antecedent basis for features recited therein. Accordingly, withdrawal of the objection to claim 1 is requested.

Claims 12 and 14-22 were rejected under 35 U.S.C. 102(b) as being anticipated by Tognazzini. This rejection is respectfully traversed, in view of claim 12 as amended herein.

Independent claim 12:

In particular, claim 12 is amended to include features of dependent claim 19 (now cancelled). As amended, claim 12 recites a method for operating a provider computer to provide performance data to a user computer on a network. The claimed method includes "receiving with the provider computer location information corresponding to the geographic location of the user computer and providing the user computer with a communication over the network, the communication comprising an incentive to a user of the user computer to visit a specified business establishment within the vicinity of the geographic location of the user computer."

Tagnazzini clearly does not disclose or suggest geographic-based incentives. As described in the present specification, an incentive can include a discount coupon, an offer of one or more future on-line performances at a discount or without charge, a membership, or the like. While Tagnazzini describes a map processor 32 that utilizes standard maps to provide a preferred route of travel to a user (Tagnazzini, col. 6, ll. 16-35), Tagnazzini does not describe or suggest any form of incentive to follow the mapped route of travel.

In the Final Office Action, the Examiner made the following comment regarding claim 19 (which is now incorporated into claim 12): “Regarding claims 18-21 does not teach or define any new limitations above claim 17 and therefore is rejected for similar reasons.” With respect to claim 17, the Examiner cited column 8, lines 29-50 of the Tagnazzini patent. However, the cited portion of the Tagnazzini patent only describes providing location information, but does not describe or suggest providing the user with any incentive to go to the location. Thus, claim 12 (amended to include features of dependent claim 19) is believed to be patentably distinguished over Tagnazzini. The rejection of claim 12 is, therefore, respectfully traversed.

Dependent claims 14 and 15:

Dependent claims 14 and 15 are believed to be allowable, at least for reasons as discussed above with respect to its parent claim 12. In addition, dependent claims 14 and 15, each recites further features that are further distinguished from Tagnazzini.

In particular, claim 14 recites that “generating electronic data corresponding to a live performance comprises recording a live performance with at least one of an audio or video recording device.” Claim 15 recites that “generating electronic data corresponding to a live performance comprises recording a live performance performed by the at least one performer and including the at least one user-selectable performance attribute.” Parent claim 12 recites that the step of generating electronic data is done “in response to the request” (i.e., in response to the request received from the user). Accordingly, the “recording a live performance with at least one of an audio or video recording device” of claim 14 is performed “in response to the request received from the user computer. Similarly, the “recording a live performance performed by the at least one performer and including at least one user selectable performance attribute” of claim

15 is performed “in response to the request” (i.e., in response to the request received from the user).

In contrast, Tagnazzini neither describes nor suggests recording a live performance with an audio or video recording device in response to a request from the user. Instead, Tagnazzini describes a system in which a user’s TV or radio receives information that includes advertisement information. (Tagnazzini, col. 5, ll. 29-31). The advertisement information is embedded within the TV or radio signals and is stripped from the received TV or radio signals by a processor 6. (Tagnazzini, col. 5, ll. 31-35 and 51-67.) Thus, Tagnazzini’s advertisement information must have been pre-recorded by the time that the TV or radio signal is received by the user. In this regard, the advertisement information (nor the received TV or radio program information) is a live performance that is recorded in response to a request from the user.

The inventions of claims 14 and 15 are significantly different from the system described by Tagnazzini, in that the inventions of claims 14 and 15 allows a user to request a performance and have the performance recorded live, in response to the request. Thus, the user may request specific performance attributes (e.g., see claim 15) and is not bound by a limited number of performances that may have been pre-recorded. Tagnazzini’s system allows the user to select from pre-recorded advertisements, but provides no mechanism for a user to select a performance and then have that performance recorded live in response to the request. Furthermore, Tagnazzini does not disclose or suggest transmitting the electronic data corresponding to the performance recorded live in response to the request.

In the rejection of claim 14, the Examiner cited column 9, lines 39-47 of the Tognazzini patent. However, that portion of the Tognazzini patent (a portion of claim 1 of that patent) makes no references to any live recording of a performance, in response to a request from a user. Instead, the cited section of the Tognazzini patent merely corresponds to the above-noted description of allowing a user to select a pre-recorded advertisement for printing, displaying or obtaining a telephone number of the advertiser.

In the rejection of claim 15, the Examiner cited column 1, lines 50-59 of the Tognazzini patent. However, that portion of the Tognazzini patent makes no reference to any live recording of a performance, in response to a request from a user. Instead, the cited section of the

Tognazzini patent refers to conventional advertisements (not performances recorded live, in response to a user's request).

The rejection of claims 14 and 15 is, therefore, respectfully traversed.

Claim 18:

Claim 18 is amended to be in independent form and recites a method that includes "generating electronic data corresponding to a live performance performed by the at least one performer in response to the request" and "transmitting the electronic data to the user computer over the network" Claim 18 further specifies that "the electronic data includes tactile data for operating a tactile device associated with the user computer." Tagnazzini neither describes nor suggests any form of tactile data or data that operates a tactile device.

In the Final Office Action, the Examiner's basis for the rejection of claim 18 was "claims 18-21 does not teach or define any new limitations above claim 17 and therefore is rejected for similar reasons." That rejection of claim 18 is not understood, because claim 18 was dependent on claim 12 (not claim 17). Furthermore, original dependent claim 18 clearly recites further limitations beyond claim 12, by further defining the data in the steps of "generating electronic data corresponding to a live performance performed by the at least one performer in response to the request" and "transmitting the electronic data to the user computer over the network." Applicant respectfully submits that the rejection of claim 18 in the Final Office Action was improper and did not address the features recited in that claim. The rejection of claim 18 is, therefore, respectfully traversed. Claim 18 is amended herein to be in independent form. Applicant requests that claim 18 be examined.

Dependent Claim 20:

Dependent claim 20 is believed to be allowable, at least for reasons as discussed above with respect to its parent claim 12. In addition, dependent claim 20 recites further features that are further distinguished from Tagnazzini.

Dependent claim 20 is dependent on claim 12 and further recites that "the incentive has a value to the user and the value is dependent upon the relative distance between the geographic

location of the user computer and the specified business establishment.” As discussed above with respect to claim 12, Tagnazzini clearly does not disclose or suggest geographic-based incentives. While Tagnazzini describes a map processor 32 that utilizes standard maps to provide a preferred route of travel to a user (Tagnazzini, col. 6, ll. 16-35), Tagnazzini does not describe or suggest any form of incentive to follow the mapped route of travel. In that regard, Tagnazzini does not describe or suggest an incentive that has a value to the user, where the value is dependent upon the relative distance between the geographic location of the user computer and a specified business establishment.” Tagnazzini provides maps, but does not provide any incentive to travel the mapped route, much less an incentive that has a value to the user dependent on a relative distance.

In the Final Office Action, the Examiner’s basis for the rejection of claim 20 was “claims 18-21 does not teach or define any new limitations above claim 17 and therefore is rejected for similar reasons.” That rejection of claim 20 is not understood, because claim 20 was dependent on claim 12 (not claim 17). Furthermore, original claim 20 clearly recites further limitations beyond claim 12 (and beyond claim 17), by reciting a step of “providing the provider computer with location information corresponding to the geographic location of the user computer and receiving by the user computer a communication over the network, the communication comprising an incentive having a value to a user of the user computer to visit a specified business establishment, wherein the incentive value is dependent upon the relative distance between the geographic location of the user computer and the specified business establishment.” Applicant respectfully submits that the rejection of claim 20 in the Final Office Action was improper and did not address the features recited in that claim. The rejection of claim 20 is, therefore, respectfully traversed. Applicant requests that claim 20 be examined.

Dependent Claim 21:

Dependent claim 21 is dependent on claim 20 and further recites that “the incentive value is greater for a first geographic location of the user computer than for a second geographic location of the user computer, wherein the first geographic location of the user computer is further from the specified business establishment than the second geographic location of the user computer.”

As discussed above with respect to claims 12 and 20, Tagnazzini does not disclose or suggest geographic-based incentives, incentives that have a value to a user, where the value is dependent upon the relative distance between the geographic location of the user computer and a specified business establishment. In that regard, Tagnazzini also does not disclose or suggest providing an incentive value that is greater for a first geographic location of the user computer than for a second geographic location of the user computer, wherein the first geographic location is further from the specified business establishment than the second geographic location.

In the Final Office Action, the Examiner's basis for the rejection of claim 21 was "claims 18-21 does not teach or define any new limitations above claim 17 and therefore is rejected for similar reasons." That rejection of claim 21 is not understood, because claim 21 was dependent on claim 20, which was dependent on claim 12 (not claim 17). Furthermore, original claim 21 clearly recites further limitations beyond claims 12 and 20 (and beyond claim 17), by further modifying the "incentive value" feature. In particular, claim 21 recites that the step of receiving a communication comprising an incentive having an incentive value further comprises receiving a communication comprising an incentive having a value that is greater for a first geographic location of the user computer than for a second geographic location of the user computer, wherein the first geographic location of the user computer is further from the specified business establishment than the second geographic location of the user computer. Applicant respectfully submits that the rejection of claim 21 in the Final Office Action was improper and did not address the features recited in that claim. The rejection of claim 21 is, therefore, respectfully traversed. Applicant requests that claim 21 be examined.

Dependent Claim 22:

Dependent claim 22 is dependant on claim 12 and is believed to be allowable, at least for reasons as discussed above with respect to its parent claim 12. In addition, dependent claim 22 recites further features that are further distinguished from Tagnazzini. In particular, claim 22 recites that "receiving a request from a user computer comprises providing a website in an on-line communication session over the network" and that "transmitting electronic data comprises transmitting an on-line performance performed by the performer in real time during the on-line communication session, in response to request."

As discussed above, Tagnazzini describes a system that allows a user to select from among pre-recorded advertisement information embedded within a TV or radio signal. The advertisement information must be pre-recorded, in order to be embedded within the TV or radio signal received by the user. Accordingly, Tagnazzini clearly does not disclose or suggest a method in which a user's request is received in an on-line communication session and, in response, on-line performance performed by the performer in real time during the on-line communication session is transmitted to the user's computer. Because Tagnazzini's advertisement information is pre-recorded and embedded in the TV or radio signal, Tagnazzini's system does not involve an on-line performance performed by a performer in real time during an on-line communication session (and, in particular, during the same on-line communication session in which the user's request was received).

In the rejection of claim 22, the Examiner cited column 6, lines 50-59 of the Tagnazzini patent. However, the cited section of the Tagnazzini patent refers to a feature in which a user may request a particular pre-recorded advertisement information on through processor 6 and also be provided with the telephone number (or the telephone number may be automatically provided to the user's telephone) to call an advertiser on a separate telephone network. The user's selection of advertisement information (using the processor 6) and the telephone call (on a separate telephone 8 connected to a telephone network) do not involve a common communication session. In that regard, Tagnazzini's supply of a telephone number to a user's telephone does not teach or suggest "receiving a request from a user computer comprises providing a website in an on-line communication session over the network" and "transmitting electronic data comprises transmitting an on-line performance performed by the performer in real time during the on-line communication session, in response to request."

The rejection of claim 22 is, therefore, respectfully traversed.

Claims 1-3, 5-6 and 8-11

Claims 1-3, 5-6 and 8-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lewin et al. in view of Tognazzini. In addition, claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Tognazzini in view of Lewin et al. With regard to cancelled

claim 8, the rejection is moot. With regard to claims 1, 2, 3, 5, 6, 9, 10 and 11, these rejections are respectfully traversed, in view of the following remarks.

Claim 1 is amended herein to incorporate dependent claim 8 (now cancelled). As amended, claim 1 recites a method involving accessing a user interface via the user computer, wherein the user interface includes data related to at least one performer; selecting a performer from the user interface to provide at least one of said audio and video performance; transmitting a request to provide the at least one of said audio and video performance in real time as a response to the request; and receiving data for playing the at least one of said audio and video representation of the performance over the network with the user computer in response to the request; wherein the data is for playing at least one of an audio and video representation of the performance that was performed in real time in response to the request.

As acknowledged by the Examiner, Lewin does not teach transmitting a request to the performer to provide the selected service in real time as a response to the request and receiving the selected service over the network with the user computer in response to the request. In addition, it is submitted that Lewin does not disclose or suggest selecting a performer to provide an audio or video performance, transmitting a request to provide an audio or video performance in real time, and receiving data for playing an audio or video representation of the performance in response to the request, where the data is for playing an audio or video representation of the performance that was performed in real time in response to the request.

In contrast, the Lewin et al. reference describes a computer-based reservation system for making and managing online reservations for booking products or services. By the nature of “reservations” or “bookings,” the user may (or may not) obtain the reserved or booked product or service in the future. Lewin et al. neither describe nor suggest a method in which the selected service is an audio or video performance that is performed by a performer in real time in response to the user’s request and is received by the user over the network in response to the request.

The Examiner stated that Tognazzini teaches transmitting a request to the performer to provide the selected service in real time as a response to the request (citing column 6, lines 50-59 of the Tognazzini patent). However, the cited section of Tognazzini does not disclose or suggest

transmitting data for playing an audio or video representation of the performance that was performed in real time in response to the request. As discussed above, instead, Tognazzini describes pre-recorded advertisement information embedded within a TV or radio signal that (by their nature of being embedded in the TV or radio signal received by the user) are not “an audio or video representation of the performance that was performed in real time in response to the request.”

Accordingly, neither Lewin nor Tognazzini describe or suggest a method in which a selected audio or video performance is performed by a performer in real time in response to the user’s request and is received by the user over the network in response to the request. In that regard, the combination of Lewin and Tognazzini suggested by the Examiner would not teach or suggest such a method. Furthermore, there would have been no motivation or suggestion to combine an on-line reservation system (as described by Lewin) with a system for providing advertisements embedded within a TV or radio signal (as described by Tognazzini).
be applicable to the Lewin system of ordering reservations on-line.

In the rejection of dependent claim 8 (which is now incorporated in independent claim 1), the Examiner cited column 5, lines 65-67 of the Tognazzini patent. That portion of the Tognazzini patent refers to the embedded, pre-recorded advertising data that is transmitted concurrently with video or audio data. The referenced video or audio data comprises the TV or radio signal data in which the advertising data is embedded. Thus, the video or audio data referred to by Tognazzini is not selected audio or video performance that is performed by a performer in real time in response to the user’s request. Instead, Tognazzini’s video or audio data (referenced in col. 5, lines 65-67) is a TV or radio signal data (not data transmitted in response to a user’s request to a performer) and the Tognazzini’s advertising data is pre-recorded data that is embedded in the TV or radio signal (not performed in real time in response to a request) and embedded within the TV or radio signal.

Therefore, the rejection of claim 1 is respectfully traversed.

Claims 2, 3, 5, 6 and 9-11 are each dependent on claim 1, directly or indirectly. Accordingly, at least for reasons as discussed above with respect to claim 1, the rejection of claims 2, 3, 5, 6 and 9-11 is also respectfully traversed.

In addition, dependent claims 10 and 11 each recite features that further distinguish those claims over the prior art of record. Similar to the discussion above with respect to claim 12, Tagnazzini clearly does not disclose or suggest geographic-based incentives. As described in the present specification, an incentive can include a discount coupon, an offer of one or more future on-line performances at a discount or without charge, a membership, or the like. While Tagnazzini describes a map processor 32 that utilizes standard maps to provide a preferred route of travel to a user (Tagnazzini, col. 6, ll. 16-35), Tagnazzini does not describe or suggest any form of incentive having a value to a user, much less an incentive value that is dependent upon the relative distance between the user computer and a specified business establishment. Lewin also does not disclose an incentive of value that is based on geographic location. Accordingly, claim 10 is further distinguished over the cited references. In addition, neither Lewin nor Tagnazzini describe or suggest an incentive value that is greater for a first location than for a second location, where the first location is further from the specified business establishment than the second location. Accordingly, claim 11 is yet further distinguished over the cited references.

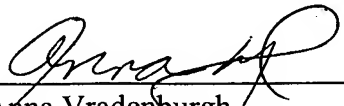
In the rejection of claims 10 and 11, the Examiner cited Tognazzini, at column 8, lines 29-50. However, the cited portion of the Tognazzini patent describes providing maps. As discussed above, Tognazzini does not describe or suggest providing an incentive of value to the user to follow a map, much less an incentive that has a greater value for a user in a first location (located further from a business establishment) than for a user in a second location. Accordingly, the rejection of claims 10 and 11 is respectfully traversed.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date: February 18, 2006
 Piccionelli & Sarno
 1925 Century Park East, Suite 2350
 Los Angeles, CA 90067
 Telephone: (310) 553-3375

By: 
 Anna Vradenburgh
 Registration No. 39,868